**THE HON'BLE SRI JUSTICE N.V. RAMANA**

**Writ Petition No.24904 of 2006**

**Dated: 01.12.2006**

Between:

B.R.S.Babu.

**.... PETITIONER**

AND

The Depot Manager, APSRTC, Nandikotkur Depot, Kurnool District and another.

**.....RESPONDENTS**

**THE HON'BLE SRI JUSTICE N.V. RAMANA**

**Writ Petition No.24904 of 2006**

**ORDER**:

This writ petition is filed seeking a writ of Mandamus declaring the action of respondent No.1 in passing the proceedings dated 26.06.1993, withholding the annual increment of the petitioner for a period of two years with cumulative effect, as illegal and arbitrary.

2. The petitioner is employed as a Conductor in APSRTC. He was issued a charge sheet, dated 24.04.1993, on certain cash and ticket irregularities, and that he was required to submit the explanation, as to why necessary disciplinary action shall not be taken against him, for which he orally submitted his explanation denying the charges framed against him. The respondent No.1, without conducting any regular departmental enquiry and without affording any opportunity, issued impugned proceedings dated 26.06.1993 imposing punishment of withholding the annual increment for a period of two years with cumulative effect. Against the said punishment, the petitioner preferred an appeal before respondent No.2 and the same was rejected vide proceedings dated 24.01.1995. Aggrieved by the same, the petitioner filed the present writ petition.

3. Learned counsel for the petitioner contends that stoppage of increments of an employee with cumulative effect is a major

penalty, and the same cannot be imposed without conducting regular departmental enquiry as contemplated under the APSRTC Employees' (CC&A) Regulations (for short 'the Regulations'). In support of his contention, learned counsel relied on the judgment of the Supreme Court in "***Kulwanth Singh Gill v. State of Punjab***[1]".

4. On the other hand, learned Standing Counsel appearing on behalf of the respondents-Corporation vehemently opposed the said contention and submitted that respondent No. 1, after careful consideration of the entire evidence available on record, has passed the impugned order, hence, no reasons to interfere with the same.

5. Heard the learned counsel for both the parties and perused the material available on record.

6. It is an admitted fact that respondent No.1 imposed punishment of deferment of annual increment for a period of two years with cumulative effect, which is a major punishment. Admittedly, no regular departmental enquiry was conducted though the charge sheet was issued to the petitioner before imposing the penalty. The apex Court in "***Kulwanth Singh Gill's Case*** (1 supra) held that stoppage of increments with cumulative effect is a major penalty and it cannot be imposed without conducting the departmental enquiry. Since the punishment of stoppage of annual increment for a period of two years was imposed without conducting regular departmental enquiry violating the judgment of the apex Court, the impugned order cannot be sustained.

7. In the ordinary course of things, the impugned order needs to be set aside leaving it open to respondent No.1 to pass fresh

orders, but to avoid further litigation in the matter, I deem it appropriate to dispose of the writ petition with the following direction.

The impugned order dated 26.06.1993, passed by respondent No.1, imposing the punishment of stoppage of annual increment for a period of two years with cumulative effect, is modified to that of stoppage of annual increment without cumulative effect. The petitioner shall not be entitled to any monetary benefits arising out of this order, but shall be entitled to fixation of pay only.

Accordingly, the writ petition is disposed of. No costs.

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**N.V. RAMANA, J.**

Date: 01.12.2006

sj/nsr

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1 1991 Supp (1) SCC 504